

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
September 21, 2004**

PLACE: Room 119
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Conze, Forman

STAFF ATTENDING: Ginsberg

Mr. Damanti read the first agenda item:

Coastal Site Plan Review #110-C, Flood Damage Prevention Application #98-C, Eagle Nest, LLC, 33 Searles Road. Proposing to install a fence adjacent to the existing lagoon and perform related site development activities within regulated areas. Subject property is located on the east side of Searles Road approximately 200 feet north of its intersection with Tokeneke Beach Drive, and is shown on Tax Assessor's Map #67 as Lots #48 and #49, R-1 Zone.

Mr. Conze made a motion to waive the reading of the draft resolution aloud. That motion was seconded by Ms. Forman and unanimously approved. The Commission then discussed the draft resolution. Ms. Forman had comments on finding #2 on page 2. Mr. Spain commented on findings #1, 2 and 3 on page 2. Mr. Damanti also had comments on certain findings on page 2 of the draft. Mr. Spain noted that the fence and gate were installed without the required permits, and the applicant is requesting approval after-the-fact. Commission members agreed that Condition C should be removed. Mr. Conze then made a motion to adopt the resolution as modified. That motion was seconded by Ms. Forman and unanimously approved.

The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 21, 2004**

Application Number: Coastal Site Plan Review #110-C
Flood Damage Prevention Application #98-C

Tax Assessor's Map #67 Lots #48 & #49

Street Address: 33 Searles Road

Name and Address of Property Owner: Eagle Nest, LLC
33 Searles Road
Darien, CT 06820

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Name and Address of Applicant
And Applicant's Representative: Wilder G. Gleason, Esq.
Gleason Hill & Ambrette, LLC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to install a fence adjacent to the existing lagoon and a gate along the front of the property, and perform related site development activities within regulated areas.

Property Location: Subject property is located on the east side of Searles Road approximately 200 feet north of its intersection with Tokeneke Beach Drive.

Zone: R-1 Zone

Date of Public Hearing: July 27, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: September 21, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 30, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size and nature of the installation of fences and gate are described in detail in the application, the submitted map and photographs, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application seeks approval of the presently installed black mesh fence along the lagoon and a gate along the front of the property. There is a gate and fence along the front property line and a wood picket fence along the north side of the driveway. The fence along the lagoon is approximately four feet high, and is black mesh attached to 4+/- foot high poles.

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This fence runs generally parallel to the lagoon, which runs along the southwest part of the property.

2. At the public hearing on this matter, the applicant's representative noted the need for a fence to keep children and guests out of the lagoon. Also at the public hearing, concerns were raised by a neighbor about the need for emergency access to and from the lagoon, and the possible impact of the fence and gate on views as assured by a private easement or agreement. Others noted that there are other points of access to and egress from the lagoon; nor will this mesh fencing preclude emergency access to the water. The Commission does not enforce private easements and it is not within the Commission's jurisdiction to render a ruling on such claims.
3. The submitted map shows the location of Base Flood Elevation 12.0 on the property. It is clear that the fences are located within the flood zone. As stated by the applicant's representative at the public hearing, the proposed fences and gate will meet all flood regulations. The Commission finds that water cannot build up against the fence during a flood condition, as it is a large gage mesh.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The Commission finds that the installation of the fences and gate are is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The potential adverse impacts of the proposed installation of fences and gate, on coastal resources are acceptable.
7. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #110-C and Flood Damage Prevention Application #98-C are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the fences and gate along the front of the property shall be in accordance with the map and photographs submitted for the record.
- B. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This may include DEP approval if the fence adjacent to the lagoon is within its jurisdiction. It is up to the applicant to work directly with DEP on resolving this question.
- C. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive,

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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- D. This permit shall be subject to the provisions of Sections 815 and 829e and f of the Darien Zoning Regulations.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Request for extension for Land Filling & Regrading Application #111, Park and Recreation Commission, Casey Field expansion.

Request for an additional year to commence project.

Commission members reviewed the September 16, 2004 letter from Susan Swiatek. Mr. Conze then made a motion to grant an additional year as requested. That motion was seconded by Mr. Spain, and unanimously approved.

Mr. Damanti then read the next agenda item:

Flood Damage Prevention Application #214, Land Filling & Regrading Application #129, Michael Huebsch and Suzanne Hooper, 17 Cross Road. Proposing to fill and regrade associated with the construction of a new single-family residence and septic system and perform related site development activities within a regulated area. Subject property is located on the south side of Cross Road approximately 185 feet east of its intersection with Hope Drive, and is shown on Assessor's Map #69 as Lot #8, R-1 Zone.

Mr. Ginsberg said that he and Mr. Keating had reviewed the revised plans and noted that no Land Filling and Regrading Application would now be necessary, since the scope of the work has been reduced. He said that EPC approval has recently been received for the project. He explained that the property owners have received "sign-offs" from all of the property owners within 100 feet of the property, and thus, the Commission has the ability to approve the Flood Permit administratively rather than hold a public hearing. After some brief questions regarding the plans, Mr. Conze then made a motion to approve the project, with the condition that any substantive changes which occur in the Flood Zone in the future will need to return to the Planning and Zoning Commission for review and action. That motion was seconded by Ms. Forman, and approved by a vote of 4-0.

Mr. Damanti read the next agenda item:

Amendment of Special Permit Application #169, River Park, 11 Boston Post Road.

Request to install a stone wall near existing driveway. The subject property is shown on Assessor's Map #12 as Lot #43, in the SB-E Zone.

Mr. Damanti said that he has no problem with the proposed stone wall as long as it does not block sight lines into or out of the driveway. He also asked Mr. Ginsberg to confirm that the location of the stone wall is more than 50 feet away from inland wetlands in Darien, and more than 100 feet

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from the Five Mile River. Mr. Conze made a motion to approve the amendment with those two conditions. That motion was seconded by Mr. Spain, and unanimously approved.

Discussion of revised Planning and Zoning Commission Application Form

Mr. Damanti said that at the recent OPC meeting, that group noted its desire to put applications of various Boards and Commissions on the Town web site in a .PDF format. Mr. Conze explained the need to have staff highlight prominent issues on applications to help the Commission during the public hearing process. He said that applicants often do not need an architect or landscaper present to testify during the public hearing. Mr. Damanti noted that in the past, staff reports were received for some applications.

Relative to the revised application form, Mr. Spain and Ms. Forman agreed that it was good, and an improvement over the existing form. Mr. Damanti then authorized the staff to begin using the form immediately. Mr. Conze agreed that it should be used as soon as possible, and Mr. Spain and Ms. Forman concurred. Mr. Spain confirmed that the form could not be altered once it is put onto the Town web site. Mr. Ginsberg confirmed that. Mr. Ginsberg will send the revised application form to the Library to post on the Town web site.

Approval of Minutes

Ms. Forman made a motion, seconded by Mr. Spain, to approve the September 7, 2004 General Meeting minutes as written. That passed by a vote of 3-0. Mr. Conze abstained, as he was not at that meeting.

Any Other Business (requires two-thirds vote of Commission)

Mr. Ginsberg explained that he had one proposed item under "Other Business"—a discussion of the Hart south lot property on Morley Lane. Commission members unanimously approved a motion to go into Other Business to discuss that one item.

Mr. Ginsberg explained the request as to whether relocating the retaining wall alone would be sufficient to satisfy the Commission. He asked whether the changes made could cause environmental impacts is the correct standard/yardstick. Mr. Damanti reminded the Commission that this was a site-specific approval. He suggested that Mr. Hart follow the plan with great precision, or in the alternative, return to the Commission for a requested amendment to the plans.

At 9pm, Mr. Damanti then noted the next agenda item:

2005 Town Plan of Conservation & Development

Review draft of Housing Chapter, and discuss role of consultant(s) in completing the Plan.

Jo Tatum of the Darien Housing Authority was present to discuss the draft chapter with the Commission. Anne Lynn, Housing Commissioner, was also present. Mr. Conze referred to Table G-4 of the draft, and requested the total acreage of the DBR zone, to get a sense of how it can be increased, or whether properties need to be rezoned. Mr. Damanti noted that the condominiums in Town were built generally all at the same time in the 1980's.

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Ms. Forman asked Ms. Tatum about existing waiting lists for the housing. Ms. Tatum responded that there are approximately three openings a year, and there is a long waiting list. People are income checked each year in the moderate-income housing. She said that the Allen O'Neill complex consists of 41 houses and 12 apartments in one building. The property is owned by the Darien Housing Authority.

Further changes were suggested to the chart on page G-4. Ms. Forman's comments were then discussed. She said that traffic, demographics and housing are an inter-related package. Mr. Conze said that he would not like to take commercial real estate off the tax rolls. Ms. Lynn said that there is a need to acknowledge the stress on housing due to the changing demographics of the community. She added that affordable housing is not necessarily condominiums. Townhouses should also be considered. A variety of housing stock is beneficial, and larger condominiums are desired.

Mr. Conze said that new housing needs to be consistent with the existing zoning regulations, traffic considerations and sound planning practices. The issue of in-law/in-house apartments was then discussed.

Mr. Conze said that he would like a review of the existing zoning and vacant land in the DMR and DBR zoning districts.

Mr. Damanti said that the Commission should see all of the draft chapters together soon. Mr. Spain suggested that a loose-leaf book of each chapter be prepared for each Commission member.

There being no other business, the meeting was then adjourned at 10:20 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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